

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

In re the Marriage of:)	2 CA-CV 2010-0126
)	DEPARTMENT A
RENE R. HERRERA,)	
)	<u>MEMORANDUM DECISION</u>
Petitioner/Appellant,)	Not for Publication
)	Rule 28, Rules of Civil
and)	Appellate Procedure
)	
MARY VIVIAN ESPINOZA,)	
)	
Respondent/Appellee.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF GREENLEE COUNTY

Cause No. DO2001040

Honorable Monica L. Stauffer, Judge

AFFIRMED

Jared O. Smith	Safford
	Attorney for Petitioner/Appellant

H O W A R D, Chief Judge.

¶1 Appellant Rene Herrera appeals from the trial court's order requiring him to reimburse appellee Mary Espinoza for their children's medical expenses. He argues that the court erred because Espinoza's request for reimbursement was not properly before it. He further contends the court erred because Espinoza did not present him with the bills in a timely manner and because the expenses were in violation of the joint custody decree. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the trial court's ruling. *In re Marriage of Yuro*, 192 Ariz. 568, ¶ 3, 968 P.2d 1053, 1055 (App. 1998). Herrera and Espinoza were divorced in October 2001. In March 2010, Herrera filed a petition to modify the child support order because his children had begun receiving payments due to his qualification for social security disability. After a hearing, the trial court modified the child support payments, ordered Herrera to reimburse Espinoza for his unpaid share of medical expenses, and altered the allocation of medical expenses. This appeal followed.

Discussion

¶3 Herrera first argues that Espinoza's petition was not properly before the court because it did not comply with the requirements of the applicable procedural rules. But the record on appeal does not reflect that Herrera ever raised this issue below.¹

¹The record on appeal does not include the transcript of the hearing, and there is nothing in the trial court's minute entries or the letters filed by Herrera that would demonstrate that this issue was raised below. Nor does Herrera point us to anything in the record to the contrary. And it is appellant's responsibility to ensure that necessary

Therefore, it is waived on appeal. *See City of Tempe v. Fleming*, 168 Ariz. 454, 456, 815 P.2d 1, 3 (App. 1991) (“arguments not made at the trial court cannot be asserted on appeal”); *see also Trantor v. Fredrikson*, 179 Ariz. 299, 300, 878 P.2d 657, 658 (1994) (purpose of requiring party to make specific objection in trial court is to give court opportunity to rule before appellant claims error on review).

¶4 Herrera further contends he should have to pay only those bills that were presented to him in a timely manner or, alternatively, he should not have to pay the expenses that were incurred in violation of the joint custody decree. Although Herrera asserts the trial court erred in its ruling, he does not support these assertions with any citation to the record. And his citations in the statements of the case and of facts pertain to papers and orders filed, not to the underlying facts relevant to these issues. Consequently, these arguments are also waived. *See Ariz. R. Civ. App. P. 13(a)(6)* (“An argument . . . shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.”); *Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393-94 n.2 (App. 2007) (appellant’s failure to develop and support argument waives issue on appeal). Furthermore, we must presume the missing transcript and other missing portions of the record support the court’s ruling. *See Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d

transcripts are included in the record on appeal. *See Ariz. R. Civ. App. P. 11(b)(1)*. Moreover, we must presume the missing transcript supports the court’s ruling. *See Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995) (“When a party fails to include necessary items, we assume they would support the court’s findings and conclusions.”).

764, 767 (App. 1995) (“When a party fails to include necessary items, we assume they would support the court’s findings and conclusions.”).

Conclusion

¶5 In light of the foregoing, we affirm the trial court’s ruling.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge